

PUBLIC UTILITIES COMMISSION

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July 16, 1996

VIA FEDERAL EXPRESS

Office of the Secretary
Federal Communications Commission
1919 M St., N.W. Room 222
Washington, D.C. 20554

Re: CC Docket No. 92-77

Gentlemen:

Please find enclosed for filing an original plus nine copies of the COMMENTS OF THE PEOPLE OF THE STATE OF CALIFORNIA AND THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA ON THE NOTICE OF PROPOSED RULEMAKING in the above-referenced docket.

Also enclosed is an additional copy of this document. Please file-stamp this copy and return it to me in the enclosed, self-addressed postage pre-paid envelope.

Yours truly,


Patrick S. Berdge
Attorney for California

PSB:cdl

Enclosures

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BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

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In the Matter of)	FCC 96-253
)	
Billed Party Preference for)	CC Docket No. 92-77
InterLATA 0+ Calls)	
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**COMMENTS OF THE PEOPLE OF THE STATE OF CALIFORNIA
AND THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA
ON THE NOTICE OF PROPOSED RULEMAKING**

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July 16, 1996

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TABLE OF CONTENTS

I. INTRODUCTION.....	1
II. SUMMARY.....	1
III. DISCUSSION.....	2
A. BILLED PARTY PREFERENCE.....	2
B. PRICE DISCLOSURE RULES.....	3
C. TARRIFF FILINGS.....	5
D. SPECIFIC AND DISCERNIBLE RATES.....	6
E. INMATE CALL RULES	6
IV. CONCLUSION.....	7

I. INTRODUCTION

The People of the State of California and the Public Utilities Commission of the State of California ("California" or "CPUC") hereby respectfully submit these comments to the Federal Communications Commission ("FCC" or "Commission") on the second further notice of proposed rulemaking ("NPRM") regarding billed party preference for InterLata 0+ calls. This second NPRM is filed pursuant to the Telecommunications Act of 1996 ("the Act").

II. SUMMARY

In the Second Further Notice of Proposed Rulemaking, ("NPRM"), the Commission tentatively concluded that it should:

1. Establish benchmarks for Operator Services Providers' ("OSPs") rates and associated charges that reflect consumers' expectations; and
2. Require OSPs whose charges and related aggregator surcharges or premises-owner fees exceed such benchmarks to disclose orally to consumers, before connecting a call, the total charges for which consumers would be liable or, in the alternative,
3. Require OSPs to give a specific rate brand for all 0+ calls.¹

¹ NPRM at ¶ 12.

The NPRM also solicits comment on proposed rules with respect to the filing of informational tariffs for interstate operator services and the extent to which the Commission must or may forbear from enforcing the requirements for such tariffs. Finally, the FCC solicits comments in the NPRM on alternative remedies for high rates charged by some carriers serving prisons.

III. DISCUSSION

A. Billed Party Preference

California concurs with NARUC's comments supporting the billed party preference ("BPP") concept² and encourages the FCC to act expeditiously to determine if BPP implementation is cost-justified. Under BPP, operator-assisted long-distance traffic would be carried automatically by the OSP preselected by the party being billed for the call.

California is encouraged that the Commission intends to give further consideration to BPP as local number portability develops as mandated under Section 251(b)(2) of the Act. California agrees with the observation in the NPRM that, if local exchange carriers are required to install the facilities needed to perform database queries for number portability purposes for each call, the incremental cost to query the database for the customer's preferred OSP might well be less than the customer benefits from BPP.³

² *Ibid.*

³ NPRM at ¶ 4.

For this reason, California strongly advocates BPP as the preferred solution to OSP pricing abuses.

The CPUC notes that the FCC's June 27, 1996 decision in the number portability NPRM requires LECs to deploy number portability databases in the nation's 100 largest MSAs. These databases potentially could be utilized for BPP in those markets. However, any addition of BPP to number portability databases should not be permitted to delay the introduction of permanent number portability beyond the present schedule set by the FCC.

B. Price Disclosure Rules

The NPRM asks whether the benefits of a price disclosure for each call, or a disclosure of the price of a representative call before connecting a call, would exceed the costs of such disclosures even for 0+ calls that are placed at or below the levels at which consumers expect them to be priced.⁴ Further, the NPRM asks whether such a requirement may obviate the need to establish any benchmark-level requirements.⁵

California supports the policy of price disclosure statements by OSPs for all 0+ calls because, in the interim, the full disclosure alternative would appear to provide many of the benefits of BPP at little, if any, cost to consumers. The CPUC points out that the operator-assisted toll rates of the three major

⁴ NPRM ¶ 15.

⁵ *Ibid.*

interexchange carriers are significantly higher than direct-dialed rates, and substantially higher than rates available to customers who use various calling plans. Therefore, disclosure of OSP rates prior to call completion can prevent significant dissatisfaction when the customer later reviews his telephone bill.

Furthermore, disclosure of OSP rates is compatible with existing CPUC requirements that each California payphone clearly and legibly display cost information, dialing instructions, and identification of the owner and carrier.⁶ Disclosure of OSP rates prior to the customer's use of the service is a reasonable minimal protection which should be afforded the OSP customer. California believes that this expedient safeguard will significantly deter pricing abuses, and may result in a substantially lowered level of consumer complaints.

The NPRM would require OSPs to inform consumers of the total charges for which they would be liable in the initial rate period and each subsequent rate period.⁷ Such disclosure promotes fair business practices and is an appropriate safeguard in the evolving competitive market. California favors disclosure of both the initial minute and subsequent minute rates. The initial minute rate includes any operator or other surcharges. In order to provide full disclosure, however, the quoted rate should be call-specific and not an averaged rate.

⁶ See CPUC Decision (D.) 90-06-018, 36 CPUC 2d 446, discussed at length in the CPUC's recent comments in the FCC's Pay Telephone proceeding, CC Docket No. 96-128.

⁷ NPRM ¶ 35.

California does not support the NPRM's proposal that disclosure must only occur if rates are above benchmarks. Instead, disclosure on all calls will better serve to reduce customer confusion.

C. Tariff Filings

California opposes the NPRM's suggestion that the Commission "forbear" from applying Section 226 tariff filing requirements to non-dominant interexchange OSPs, regardless of whether they provide an audible disclosure of the applicable rate and charges prior to connecting any interstate 0+ call from a payphone location.⁸ The filing of tariffs is an important customer safeguard that helps prevent arbitrary and discriminatory pricing. Requiring OSPs to file tariffs also provides an enforcement mechanism that may assist the Commission in determining whether an OSP's rates exceed their disclosure statement. Moreover, should a complaint arise, tariffs are a first source of information available to Commission staff which can be used, in conjunction with other information, to determine whether an OSP has violated or complied with the Commission's rules. For this reason, California strongly opposes the Commission's forbearance of its Section 226 tariff filing requirements applicable to non-dominant interexchange OSPs.

⁸ NPRM ¶ 43.

D. Specific and Discernible Rates

The NPRM seeks comment on a proposed rule, should the FCC enforce the informational tariff-filing requirement (i.e., not to forbear from requiring tariff filings), that all OSPs include "specific and discernible rates and charges" rather than a range of rates⁹ in tariffs filed pursuant to Section 226 of the Act. California supports this requirement. Tariffs containing a range of rates may not provide adequate information to determine whether an OSP's rates match its disclosure statement. Only tariffs containing specific rates provide the necessary basis for determining whether an OSP's rates are truly non-discriminatory.

E. Inmate Call Rules

The NPRM invites comment on whether the public interest would be better served by some alternative remedy for prison inmate calling including, but not limited to, requiring full price disclosure to the party to be billed for a collect call before connecting the call for inmate calls. California advocates full rate disclosure and, therefore, does not believe that any additional requirements are necessary for calls placed by inmates.

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⁹ NPRM ¶ 47.

IV. CONCLUSION

For the reasons stated, the CPUC urges the FCC to:

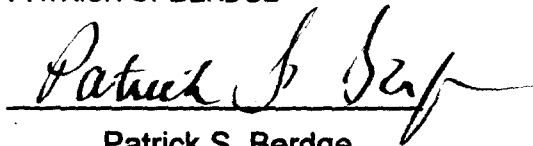
1. Adopt the BPP concept if feasible;
2. Adopt full price disclosure of initial minute and subsequent minute rates; and
3. Require tariff filings for interstate calls containing the OSPs' specific and discernible rates.

Dated: July 16, 1996

Respectfully submitted,

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Commission of the State of California

CERTIFICATE OF SERVICE

I, Charlene D. Lundy, hereby certify that on this 16th day of July, 1996, a true and correct copy of the foregoing COMMENTS OF THE PEOPLE OF THE STATE OF CALIFORNIA AND THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA ON THE NOTICE OF PROPOSED RULEMAKING in FCC 96-253, CC Docket No. 92-77, was mailed first class, postage prepaid to all known parties of record.



Charlene D. Lundy